

Atty. Docket No. YOR20010151US1
(590.057)

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks.

Claims 1-4, 6-9, 12-29 and 31-49 were pending in the instant application at the time of the outstanding Office Action. Claims 1, 24, 25, 27, and 46-49 are independent claims; the remaining claims are dependent claims. All of the independent claims, as well as claims 4 and 29 have been amended. These amendments are not in acquiescence of the Examiner's position on the allowability of the claims, but merely to expedite prosecution. Applicants intend no change in scope of the claims by the changes made by these amendment.

The U.S.C. 112 Rejections

Claims 4 and 29 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is asserted in the Office Action that one of ordinary skill in the art of auctions would not know what constitutes a "a sufficient change in parameters relating to a user". (Office Action Page 2) This rejection is again respectfully traversed for the same reasons set forth in Applicants' Amendment dated August 3, 2005, incorporated herein by reference. However, as indicated above, in order to expedite

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prosecution the claims in question have been amended to address the Office's concerns.

Reconsideration and withdrawal of the rejection is, therefore, respectfully requested.

The U.S.C. 103 Rejections

Claims 1-4, 6-7, 9, 12-17, 21-23, 25-29, 31-32, 34-40, 43-45, 47 and 49 continue to stand rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery.

Additionally, claims 18-20, 24, 41-42, 46 and 48 remain rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery and in further view of Price Formation in Double Auctions ("Price Formation") (by Gjerstaed and Dickhaut). Claims 8 and 33 are still being rejected under 35 U.S.C. 103(a) over Shoham in view of Montgomery in further view of Harrington et al. ("Harrington") Reconsideration is requested for the following reasons.

In the outstanding Office Action the Examiner states, "Applicant has added the limitation of choosing an order computation method 'from among a number of potential order computation methods'; *Shoham* discloses this limitation for at least the reasons that it discloses a number, one, of computation methods for choosing. Applicant's amended language does not recite choice from a *plurality* of order computation methods and therefore, *Shoham* reads on the limitation of choosing an order computation method." (Office Action Page 4). Presently, the independent claims have all been amended to recite, *inter alia*, "[c]hoosing an order computation method from a plurality of order computation methods...".

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As rightly indicated by the Examiner, Shoham fails to teach or disclose any such limitation. Furthermore, any combination of Shoham, Montgomery, Price Formation, and Harrington also fails to teach or suggest choosing an order computation method from a plurality of order computation methods as presently claimed. As the Examiner is aware, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be: (1) a suggestion or motivation to modify a reference or combine references; (2) a reasonable expectation of success in making the modification or combination; and (3) a teaching or suggestion to one skilled in the art of all the claim limitations of the invention to which the art is applied. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In the present instance obviousness is not present because, at minimum, the aforementioned requirements have not been satisfied, *e.g.*, all of the presently claimed limitations of the invention are not taught or suggested by the prior art. Therefore, Applicants request the rejections be immediately withdrawn and the claims allowed at this time.

In view of the foregoing, it is respectfully submitted that Claims 1, 24, 25, 27, and 46-49 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1, 24, 25, 27, and 46-49, it is thus also submitted that Claims 2-4, 6-9, 12-23, 26, 28-29, 31-45 are also allowable at this juncture.

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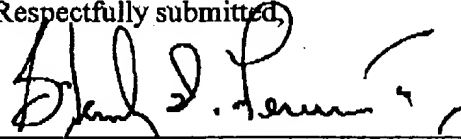
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In summary, it is respectfully submitted that the instant application, including Claims 1-4, 6-9, 12-29, and 31-49, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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